IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

In re application of:

NGUYEN, Lynh

Appln. No.: 09/750,475

Confirmation No.: 7832

Filed: December 28, 2000

For: DATA SOURCE INTERFACE ENHANCED ERROR RECOVERY

Docket No: STL/919990134US3/A8644

Group Art Unit: 2452

Examiner: CHANKONG, DOHM

REPLY BRIEF PURSUANT TO 37 C.F.R. § 41.41

Mail Stop Appeal Brief-Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

    In accordance with the provisions of 37 C.F.R. § 41.41, Appellant respectfully submits

this Reply Brief in response to the Examiner's Answer dated September 17, 2012. Entry of this

Reply Brief is respectfully requested.

Table of Contents

STATUS OF CLAIMS

Claims 1, 6-8, 13-15, 18-22 and 24 are all the claims pending in the application. Claims

1, 6-8, 13-15, 18-22 and 24 stand finally rejected and are the subject of this Appeal.

GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

1.   Claims 1, 6-8, 13-15, 18-22 and 24 are rejected under 35 U.S.C. 103(a) as

allegedly being unpatentable over Yousefi'zadeh, (U.S. Patent No. 6,950,848; hereinafter

"Yousefi'zadeh") in view of Guenthner et al, (U.S. Patent No. 6,134,588; hereinafter

"Guenthner"), in further view of Albert et al., (U.S. Patent No. 6,549,516; hereinafter "Albert").

ARGUMENT

In addition to the arguments set forth in the Appeal Brief filed July 2, 2012, Appellant responds to certain points made in the Examiner's Answer as follows.

In page 9 of the Examiner's Answer, the Examiner asserts that:

> The phrase "subsequent request" is broad and may be subject to a variety of interpretations. Here, it is reasonable to interpret each of *Albert*'s subsequent packets within a data flow as a "subsequent request." There is no language in the claim that prohibits interpreting "request" as a "packet."

Appellant respectfully disagrees for at least the following reasons.

With regard to the phrase "subsequent request", one skilled in the art would have no difficulty understanding the meaning of the term "request" as recited in the claims. For example, Merriam Webster's online dictionary, defines "request" as the act or an instance of asking for something." This definition is consistent with the use of the term in the specification. See, for example, page 21, lines 13-23 of the specification and the Figures 7 and 8.

Appellant respectfully submits that Albert does not disclose a subsequent request for the data source. On the contrary, Albert merely discloses that it is not necessary for a packet having a matching affinity key within a data flow to be forwarded to the service manager. Since Albert does not disclose "subsequent request", Albert does not teach or suggest "wherein the at least one port module bypasses the connection manager in the subsequent request for the data source." as recited in claim 1.

Specifically, claim 1 recites, *inter alia*:

> detecting unavailability of the data source, by the at least one port module, in response to an initial request for the data source by the remote application;

> dynamically detecting availability of the data source, by the
> at least one port module, in response to a subsequent request for
> the data source; and
>> re-connecting the data source to the remote application in
> response to the subsequent request, …
>> wherein the at least one port module bypasses the
> connection manager in the subsequent request.

Appellant respectfully submits that according to the claimed features, a subsequent

request corresponds to a request for the data source after an initial request for the data source.

That is, claim 1 expressly recites, requesting (or asking) for the data source after an initial

request, which is different from a mere arbitrary "packet" disclosed in Albert. For example, the

packets in Albert are general data packets (see column 14, line 51-column 15, line 8), but are not

requests for the data source. Therefore, a packet, in Albert, not being forwarded to the service

manager does not teach or suggest "… the at least one port module bypasses the connection

manager in the subsequent request for the data source."

Thus, Appellant respectfully requests the Board to reverse the rejection of independent

claims 1, 8 and 15.

<u>CONCLUSION</u>

For the above reasons as well as the reasons set forth in Appeal Brief, Appellant

respectfully requests that the Board reverse the Examiner's rejections of all claims on Appeal.

An early and favorable decision on the merits of this Appeal is respectfully requested.

Respectfully submitted,

/Ebenesar D. Thomas/
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